

NICHOLAS STROZZA, ASSISTANT U.S. TRUSTEE

State Bar #CA 117234

WILLIAM B. COSSITT, #3484

Office of the United States trustee

300 Booth Street, Room 3009

Reno NV 89509

Telephone: (775) 784-5335

Fax: (775) 784-5531

Attorneys for United States Trustee

Tracy Hope Davis

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re:)	Case no: BK-N-14-50333-BTB
)	Chapter 11
ANTHONY THOMAS, and,)	
WENDI THOMAS,)	US TRUSTEE'S OBJECTIONS TO
)	DEBTORS' CLAIMS OF EXEMPTIONS
)	
)	Hearing Date: July 30, 2014
Debtors)	Hearing Time: 10:00 a.m.
)	Est. Time Req.: 10 min.

The United States Trustee ("US Trustee") hereby objects to the Debtors' claims of exemptions for:

- 1) NRS 21.090(1)(z) for any amount over \$2,000;
- 2) NRS 21.090(1)(b) for any amount over \$24,000;
- 3) NRS 21.090(1)(f) for any amount over \$30,000; and
- 4) "At Emerald, LLC" under NRS 21.090(1)(bb)("Claimed Exemptions" a true and correct copy of Schedule C, Docket #1, pg. 20, is attached hereto as Exhibit "A").

This Objection is made pursuant to the various subsections of NRS 21.090(1), the following points and authorities, all pleadings and papers on file herein and any argument to be presented at the hearing on this matter.

Pursuant to 28 U.S.C. § 586(a)(3), the United States Trustee is charged with responsibility for supervising the administration of cases and trustees in cases under chapters 7, 11, and 13 of Title 11. The United States Trustee, by virtue of 11 U.S.C. § 307, has been granted standing to raise and to appear and be heard on any issue in any case or proceeding brought under the Bankruptcy Code.

The validity of the Debtors' claims of exemption under Nevada state law is controlled by Nevada law and Nevada rules of construction. See, In re Reaves, 256 B.R. 306, 310 (9th Cir. BAP 2000). Nevada has "opted out" of the federal exemptions. NRS 21.090(3). When a decision turns upon applicable state law and the state's highest court has not ruled on the issue, the federal court must use its best judgment to determine how the state court would rule on the issue. In re Bower, 234 B.R. 109 (Bankr. Nev. 1999) citing, General Motors Corp. v. Doupnik, 1 F.3d 862, 865 (9th Cir 1993). A court must interpret a statute consistent with legislative intent and its interpretation should be capable of obtaining a reasonable result. Bower, 234 B.R. at 111; Krieg v. Fellows, 21 Nev. 307, 309 (1892).

In Nevada, exemption statutes are construed liberally, but must further the spirit of such laws. In re Turner, 186 B.R. 108 (9th Cir. BAP 1995), Reaves, 256 B.R. at 310. A court is limited in its application of exemption statutes by what the terms of that statute can fairly be said to embrace.

NRS § 21.090(1) subsection (z) is a “wildcard” exemption applicable to any personal property, but is limited to \$1,000.00 in value, per judgment debtor. The Debtors have claimed \$4,000.00 in value under subsection (z). Exhibit “A” hereto. The Debtors are not entitled to any

1 amount over \$2,000 in value and must designate to which property the exemption is being
2 applied.

3 NRS § 21.090(1) subsection (b) is an exemption for necessary household goods, and is
4 further limited \$12,000.00 in value, per judgment debtor. The Debtors have claimed \$48,000.00
5 in value under subsection (b). Exhibit "A" hereto. The Debtors are not entitled to any amount
6 over \$24,000 in value and must designate to which property the exemption is being applied.
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8 NRS § 21.090(1) subsection (f) is an exemption applicable to vehicles and is limited to
9 \$15,000.00 in value, per vehicle and per judgment debtor. The Debtors have claimed \$60,000.00
10 in value under subsection (f). Exhibit "A" hereto. The Debtors are not entitled to any amount
11 over \$30,000 in value and must designate to which property the exemption is being applied.
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13 NRS § 21.090(1) subsection (bb) is an exemption applicable to stock in a corporation.
14 The Debtors have claimed their interest in "At Emerald, LLC". Exhibit "A" hereto. The
15 Debtors are not entitled to an exemption under subsection (bb) for their interest in an LLC. See,
16 this Court's Decision in Topol, Case No. 12-51014, Docket #676 (disallowing exemption under
17 subsection (bb) for any interests in LLC's and partnerships).

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CONCLUSION

For all of the above stated reasons, the United States Trustee requests that the Court disapprove the Debtors' Claimed Exemptions, and for such other and further relief as is appropriate.

DATED this 30th day of April, 2014.

Respectfully submitted,

Nicholas Strozza
State Bar # CA 117234
William B. Cossitt
State Bar #3484
300 Booth Street, #3009
Reno NV 89509
(775) 784-5335

/s/ WILLIAM B. COSSITT

Attorneys for United States Trustee
Tracy Hope Davis

CERTIFICATE OF SERVICE

1. On April 30, 2014, I served the foregoing US TRUSTEE'S OBJECTIONS TO DEBTORS' CLAIMS OF EXEMPTIONS

2. I served the above-named document(by the following means to the persons as listed below:

☒ a. ECF System:

- KEVIN A. DARBY kevin@darbylawpractice.com, alecia@darbylawpractice.com;sarah@darbylawpractice.com;itati@darbylawpractice.com;tricia@darbylawpractice.com
- STEFANIE T. SHARP ssharp@rbsllaw.com, btaylor@rbsllaw.com;czaehringer@rbsllaw.com
- ALAN R SMITH mail@asmithlaw.com
- U.S. TRUSTEE - RN - 11 USTPRegion17.RE.ECF@usdoj.gov

☒ b. U.S. Mail, postage fully prepaid (list persons and addresses):

ANTHONY THOMAS
WENDI THOMAS
7725 PEAVINE PEAK COURT
RENO, NV 89523

I declare under penalty of perjury that the foregoing is true and correct.

Signed: April 30, 2014.

/s/ Robbin Little
ROBBIN LITTLE

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B6C (Official Form 6C) (4/13)

In re **ANTHONY THOMAS,
WENDI THOMAS**

Case No. _____

Debtors

SCHEDULE C - PROPERTY CLAIMED AS EXEMPTDebtor claims the exemptions to which debtor is entitled under:
(Check one box)☐ Check if debtor claims a homestead exemption that exceeds
\$155,675. (Amount subject to adjustment on 4/1/16, and every three years thereafter
with respect to cases commenced on or after the date of adjustment.)☐ 11 U.S.C. §522(b)(2)☒ 11 U.S.C. §522(b)(3)

Description of Property	Specify Law Providing Each Exemption	Value of Claimed Exemption	Current Value of Property Without Deducting Exemption
<u>Checking, Savings, or Other Financial Accounts, Certificates of Deposit</u>			
WELLS FARGO CHECKING XXXX8984	Nev. Rev. Stat. § 21.090(1)(z)	2,000.00	700.00
WELLS FARGO BANK SAVINGS XXXX0555	Nev. Rev. Stat. § 21.090(1)(z)	2,000.00	200.00
<u>Household Goods and Furnishings</u>			
MISCELLANEOUS HOUSEHOLD FURNISHINGS	Nev. Rev. Stat. § 21.090(1)(b)	24,000.00	1,000.00
<u>Wearing Apparel</u>			
MISCELLANEOUS CLOTHING	Nev. Rev. Stat. § 21.090(1)(b)	24,000.00	500.00
<u>Stock and Interests in Businesses</u>			
AT EMERALD, LLC 100% BASED ON APPRAISAL VALUE EXCEEDS \$200,000,000.00	Nev. Rev. Stat. § 21.090(1)(bb)	200,000,000.00	200,000,000.00
<u>Automobiles, Trucks, Trailers, and Other Vehicles</u>			
2005 CHEVROLET AVALANCHE	Nev. Rev. Stat. § 21.090(1)(f)	30,000.00	13,478.00
2007 CHEVROLET SUBURBAN	Nev. Rev. Stat. § 21.090(1)(f)	30,000.00	4,771.00

Total:	200,112,000.00	200,020,649.00
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0 continuation sheets attached to Schedule of Property Claimed as Exempt